

# News Release



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## **Labor Department Sues Trustee of Pennsylvania 401(k) Profit Sharing Plan for Imprudent Investments**

**SCRANTON, Pa.** -- The U.S. Department of Labor sued the trustee of the Kingston, Pa.-based Penn Patio 401(k) Profit Sharing Plan for imprudently investing a substantial portion of the plan's assets in speculative stock.

"Trustees have a responsibility to prudently invest plan assets," said Mabel Capolongo, director of the Philadelphia regional office of the Department of Labor's Employee Benefits Security Administration (EBSA), which investigated the case.

The department's lawsuit, filed in federal district court in Scranton, Pa., alleges that the trustee, Michael Zabresky, invested more than 90 per cent of the plan's assets in speculative, high-tech stocks. As much as 62 percent of plan assets was invested in a single stock in violation of the Employee Retirement Income Security Act (ERISA). The suit contends that the imprudent investment strategy caused the plan's assets to sharply decline in value.

The suit seeks to restore any losses suffered by the plan, to offset Zabresky's individual plan account against those losses, and to permanently bar Zabresky from serving as a fiduciary to any employee benefit plan covered by ERISA. It also seeks to appoint an independent fiduciary to terminate the plan and distribute the assets to participants.

The company, which was engaged in constructing and installing custom patios, carports, roofing, and siding, filed for bankruptcy March 2000.

In fiscal year 2004, EBSA achieved record monetary results of \$3.1 billion related to the pension, 401(k), health and other benefits of millions of American workers and their families. Employers and workers can reach EBSA's Philadelphia regional office at (215) 861-5300 or through EBSA's toll-free number, **1-866-444-EBSA (3272)**, for help with problems relating to private-sector retirement and health plans.

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(Chao v. Zabresky)  
Civil Action No. 3:05-cv-00080-UN

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